

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

KATELYNN COWETT,)	
Individually and as Next)	
of Kin of SHERRY COWETT,)	
Deceased,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-23-059-JAR
)	
UNITED STATES OF AMERICA,)	
ex rel. UNITED STATES)	
DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES, as operator)	
Of Redbird Smith Health)	
Center,)	
)	
Defendant.)	

O R D E R

This Court has performed an initial review Defendant's Partial Motion to Dismiss for Lack of Jurisdiction and Failure to State a Claim (Docket Entry #7) which requests the partial dismissal of Plaintiff's Complaint under Rule 12(b) of the Federal Rules of Civil Procedure.

Plaintiff is invited, but is not mandated, to file an amended complaint by **JULY 28, 2023**, providing additional legal or factual averments which may vitiate Defendant's claims of insufficiency. Amending to drop certain claims of parties is allowed. Amending to add parties or claims is not contemplated by this order. A redline version of the original complaint as amended must be attached to the Amended Complaint, should one be filed. Should

Plaintiff decline the invitation to amend the Complaint, the Court will consider the motion and any response filed thereto.

Further, the Motion to Dismiss will be deemed **MOOT**, upon the filing of an Amended Complaint, without prejudice to re-filing. (An amended complaint supersedes the previous Complaint and renders it of no legal effect. See Davis v. TXO Prod. Corp., 929 F.2d 1515, 1517 (10th Cir. 1991) (citations omitted)). Defendant's deadline to renew the Motion to Dismiss in relation to the Amended Complaint is **AUGUST 14, 2023**.

IT IS SO ORDERED this 13th day of July, 2023.

A handwritten signature in blue ink, appearing to read "Jason A. Robertson", is written above a horizontal line.

JASON A. ROBERTSON
UNITED STATES MAGISTRATE JUDGE